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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Letter dated 27 February 1992 from the Permanent Representative of Cyprus to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to enclose herewith the report of the Republic of Cyprus on Internally Displaced Persons.

I should be grateful if my letter and its enclosures could be circulated as a document of the forty-eighth session of the Commission on Human Rights under agenda item 11.

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Ambassador
Permanent Representative

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Cyprus: Report on internally displaced persons

1. Many of the millions of people who are uprooted from their homes do not cross national borders so as to become recognized refugees in accordance with the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, but remain within their own country. Internal or international armed conflict, famine, natural disasters, political disturbances and systematic violations of human rights and the practice of racial discrimination in many countries are the primary cause of mass internal displacements of population. There is presently no special international organization to protect and assist such people and the existing international law is not sufficient to safeguard their rights and freedoms and provide the necessary treatment for them.

2. The people of Cyprus have gone through one of the most tragic experiences of the phenomenon of internally displaced persons. The case of Cyprus, therefore, provides a good example for studying the phenomenon, at least with respect to one of its causes and manifestations, as well as ways and means for the protection of the human rights of the internally displaced.

3. During the Turkish invasion of Cyprus in July and August 1974, and the subsequent occupation of 37 per cent of the territory of Cyprus, about 200,000 Greek Cypriot inhabitants of the occupied area, constituting one third of the population of Cyprus, were forcibly expelled from their homes and found refuge in the Government controlled area.

4. In situations of internal displacement the principles embodied in various human rights instruments, as well as in the international humanitarian law, are applicable. Of particular importance are the Fourth Geneva Convention of 1949 and the two Protocols additional thereto of 1977, which specifically prohibit individual or mass forcible transfer, as well as deportations of protected persons from occupied territory, regardless of the motive. The occupying power is also prohibited from transferring parts of its own civilian population into the territory it occupies (art. 49 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949). Violation of these provisions constitute "grave beaches" of the Convention and are regarded as war crimes (art. 147 of the Convention and art. 85 of the Additional Protocol I of 1977).

5. Yet armed conflict is not, of course, the only cause of internal displacements and therefore the International Committee of the Red Cross (ICRC) has no direct formal mandate to protect internally displaced persons in cases where people are displaced by causes other than armed conflict.

6. Despite the fact that mass expulsions and forcible displacement of populations contravene important principles of international law, certain States unfortunately continue to commit them. The displaced persons have an inalienable right to return to their homeland but no adequate or effective machinery exists to protect these people against expulsion and to implement their rights.

7. It is, therefore, imperative to consider possible ways of reinforcing the existing human rights and humanitarian law principles and machinery, in order to put an end to the human tragedy of forcible displacement of populations and to provide adequate protection.

8. Internally displaced persons suffer massive, grave and systematic violations of their human rights and fundamental freedoms, in breach of the purposes and principles of the Charter and the provisions of numerous international declarations and conventions devoted to the realization of these rights. Acts of forcible expulsion from one's home, denial of the right to return, denial of the right to freedom of movement and residence within the borders of a State, as well as arbitrary deprivation of property, constitute denial of the rights guaranteed in the international Bill of Human Rights.

9. Internally displaced persons are also hurt in their dignity and honour, they are subjected to arbitrary interference with their privacy and family life, and they are affected in the degree of realization of the right to education and the right to an adequate standard of living.

10. Forcible displacement of persons, particularly where induced or conducted by Governments as a result of aggression and military occupation of the territory of another State, have serious consequences for the enjoyment of the human rights and freedoms of the population affected.

11. The most effective way to ensure respect for the human rights of internally displaced persons is for the root causes of such situations to be decisively and effectively addressed and for the international community to intensify its efforts for the return of the displaced persons to their homes and properties.

12. The problems of displaced persons are in most, if not all, of the cases, as severe and urgent as the problems encountered by refugees. For this reason and because the 1951 Convention and the 1967 Protocol relating to the status of refugees are not, for purely legal reasons, applicable in cases of internally displaced persons, there is an urgent need for the United Nations system to address the problem, to ensure their protection and respond to their needs.

13. There is an urgent need to bring the tragedy of internal displacement to the attention of world public opinion and seek ways to broaden the mandate of existing mechanisms or, if this proves not to be possible, to create new ones for the purpose of alleviating the plight of the internally displaced.

14. In the case of Cyprus, although the displaced persons do not fall under the definition of a refugee contained in the 1951 Convention and Protocol, the fact that they face similar problems and needs as mandate refugees prompted the Security Council to adopt resolutions in which it called upon the Secretary-General to appoint a special mission of UNHCR in Cyprus in order to coordinate the relief assistance provided by United Nations programmes and agencies, as well as from other sources.

15. The link between human rights principles and the principles of the protection of refugees or displaced persons is close and direct. Although they have been clearly recognized, the two areas of humanitarian endeavour have not, however, been paralleled in the practical day-to-day operations of international organs or bodies concerned with questions of refugees and displaced persons and those involved in the area of human rights. Such interaction would be very beneficial.

16. UNHCR should strengthen its efforts to expand its collaboration with human rights bodies both at the international and regional levels. Human rights bodies should also show an even greater interest in refugee and displaced persons issues, with particular emphasis on human rights violations and on means of protection. Human rights machinery that could be relevant to refugee and displaced persons protection could and should be utilized at the national, regional and international levels.

17. It should be mentioned in this respect that on several occasions Cyprus has utilized human rights machinery at the regional and international levels, having raised in various forums the issue of the violation of the human rights and freedoms of the persons displaced in Cyprus as a result of the Turkish invasion. In particular, Cyprus brought the issue before the Commission of Human Rights of the Council of Europe, the Commission on Human Rights of the United Nations, the Committee on the Elimination of Racial Discrimination, the Committee on Human Rights and the Committee on Economic, Social and Cultural Rights.

18. A number of decisions, conclusions and resolutions were adopted by such bodies. More specifically, the European Commission on Human Rights in its report adopted in June 1977 following the two applications of Cyprus against Turkey, found Turkey responsible for violation of article 8(1) of the European Convention on Human Rights with respect to its refusal to allow the return of the refugees to their homes. The Commission on Human Rights has adopted numerous resolutions calling for the full restoration of all human rights to the population of Cyprus, in particular to the refugees. The Committee on the Elimination of Racial Discrimination has also adopted decisions in which it expressed its concern about the situation prevailing in Cyprus and the hope that the refugees would be enabled to enjoy fully their fundamental human rights without discrimination.

19. Humanitarian assistance to displaced persons should be provided, as in the case of refugees, to enable the Governments involved and the victims of foreign aggression and occupation to cope with the tragic consequences of such events, particularly the problem of displaced persons. Often such situations require an immediate international humanitarian response, the task being at times extremely difficult because of ongoing military operations. The United Nations system should find ways to enhance its ability and effectiveness to respond in a timely fashion to emergencies, as well as to the protection and assistance needs of the internally displaced.

20. As regards preventive measures which might be taken in order to avert new flows of internal displacement, this would become possible through international action and cooperation in the search for peaceful settlement of disputes likely to cause internal displacement. All States have an obligation to respect the Charter of the United Nations and in particular to refrain from the threat or use of force against the territorial integrity of any State and from acting in any other manner inconsistent with the purpose and principles of the United Nations. All States have also an obligation emanating from the Charter to accept and carry out the decisions of the Security Council and respect the resolutions of the General Assembly and other organs of the United Nations.

21. It is also of particular importance that all member States become parties to all human rights instruments and base their conduct on the human rights and humanitarian law principles enshrined in those instruments.

22. It should be mentioned in this respect that the Group of Governmental Experts which was established in 1981 to study ways and means to avert new flows of refugees, concluded in its report submitted in 1986 that

> "The effectiveness of the efforts of the United Nations system in questions concerned with averting new flows of refugees is seriously diminished by the fact that the principles of international law are not fully observed, that many decisions taken by the Security Council are not being accepted and carried out and by the lack of respect for the resolutions of the General Assembly."

If mass displacements are to be averted, the report of the United Nations suggests, States must respect the Charter, use peaceful means to resolve disputes, refrain from pursuing policies which create displaced persons and cooperate in efforts to prevent refugee flows. The various organs and agencies of the United Nations system should improve their coordination and make fuller use of their respective mandates to tackle situations and problems which could give rise to mass displacements.

23. Finally, it is encouraging to note that investigations into allegations of serious violations of international humanitarian law could soon become a reality, by the creation soon under article 90 of the Protocol I Additional to the Geneva Conventions, of a fact-finding commission.

Ministry of Foreign Affairs
21 February 1992